

# Notice of Allowability

Application No.

09/934,003

Examiner

Dat T. Nguyen

Applicant(s)

BAERLOCHER ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Request for continued examination filed 05/21/2007.
2. ☒ The allowed claim(s) is/are 1-53.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/21/2007 has been entered.

### ***Response to Amendment***

This office action is responsive to the amendments filed on 05/21/2007 in which applicant amends claims 1, 3-5, 10, 12-17, 20-22, 28-31, 33-35, 42, 47-49, 51 and 52, and responds to claim rejections. Claims 1-53 are pending.

### ***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: The applicant's representative has amended independent claims and persuasively argued for the allowance of the pending claims. More specifically, the claims draw towards methods and apparatus for playing a wagering game wherein players are presented with a plurality of player selectable digit positions. The game displays the digit positions to the player without the display of any associated values, the digits are said to be

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masked/hidden from the player. The player is allowed to select masked digits corresponding to various digit positions and in some embodiments, the player is able to rearrange them a plurality of times before deciding on the final arrangement. The machine then associates a digit with each of the player selected digit positions based on the player's order of selection and displays the digits to the player. The digits form a displayed value that corresponds to the player's award.

The closest prior art of record is that of Walker et al. (US 6,174,235). Walker teaches a picking game wherein players are able to select masked selections. The selections are then revealed to the player and an award is accumulated through the selections. However, Walker fails to disclose the masked selections being that of digit positions and the positions forming a displayed value corresponding to a player's award. Instead, Walker's masked selections are summed to form an award.

The Price is Right games teach the selection of digit positions and allowing a player to arrange digits in a desired order and the digits forming a displayed value at the end of the game wherein the player is awarded a prize corresponding to the displayed value. However, in The Price is Right games the digits values are known to the player during the ordering/selecting process, therefore a combination of The Price is Right with any masked selection game is not possible since it would destroy the game of The Price is Right since one of the primary features of the game is the decision making of the player in the determination of the winning digit number combination, which requires that the player know the digit value during the ordering/selecting process. To remove the ability for the player to know the digit position would be a destruction of the reference.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is (571) 272-2178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen



ROBERT E. PEZZUTO  
SUPERVISORY PRIMARY EXAMINER